

**United States District Court**  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

RODOLFO ROSA

V.

BRENT HILL, *et al.*

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CIVIL ACTION NO. 4:23CV129

JUDGE MAZZANT/JUDGE JOHNSON

**MEMORANDUM ADOPTING REPORT AND  
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the Report and Recommendation of the United States Magistrate Judge in this action (the “Report”) (Dkt. #41), this matter having been heretofore referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. The Magistrate Judge recommended that Defendant Bruce McFarling’s (“Judge McFarling”) Motion to Dismiss (Dkt. #18) and Tracy Murphree’s (“Sheriff Murphree”) Motion to Dismiss (Dkt. #27) be granted. On July 1, 2024, Plaintiff Rodolfo Rosa (“Plaintiff”) filed Objections (Dkt. #44) to the Report.

The Court has conducted a *de novo* review of the Objections and is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the Objections are without merit as to the ultimate findings of the Magistrate Judge. Accordingly, the Objections (Dkt. #44) are **OVERRULED** and the Magistrate Judge’s Report (Dkt. #41) is **ADOPTED** as the findings and conclusions of the Court.

**IT IS ORDERED** that Judge McFarling’s Motion to Dismiss (Dkt. #18) and Sheriff Murphree’s Motion to Dismiss (Dkt. #27) are **GRANTED**. Specifically, the following claims asserted against Judge McFarling and Sheriff Murphree are **DISMISSED WITHOUT PREJUDICE**: (1) false arrest; (2) equal protection; (3) civil rights conspiracy; (4) defamation; (5) special relationship and state created danger; (6) intentional infliction of emotional distress;

(7) false arrest and imprisonment; (8) conspiracy with racial animus; (9) conspiracy to hinder provision of equal protection; and (10) conspiracy to impede due course of justice. In addition, the following claims asserted against Judge McFarling and Sheriff Murphree are **DISMISSED WITH PREJUDICE**: (1) excessive force; (2) assault and battery; (3) unreasonable search; (4) municipal liability; and (5) constructive fraud.

The only claims remaining before the Court are those asserted against Defendant Brent Hill.

**SIGNED this 18th day of July, 2024.**

  
AMOS L. MAZZANT  
UNITED STATES DISTRICT JUDGE